

MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

FILING LAW

Forms	<ul style="list-style-type: none">• <u>All Lines except Surety Bonds, Manuscript Forms, Reinsurance, Ocean Marine, Foreign Trade</u> PRIOR APPROVAL with statutory deemer provisions. Forms must be submitted to the insurance division at least 60 days before the proposed effective date of use. Filing must be approved by the insurance division. A filing is received and stamped with a "received" date stamp, indicating it has passed through our mail room. The filing is examined on a first in/first out basis to determine if the submission is in compliance with applicable laws. If a submission passes examination it is stamped "Forms approved for use". If the submission does not pass examination a form letter will be sent to the company identifying problems, requesting additional information, etc. to facilitate compliance. If no response is received within the response time allowed, the file will be destroyed, and a new submission is required if any additional review is expected. A form can not be used until it is approved for use or goes through the deemer qualifications. If appropriate corrections have been made in response to the form letter, the submission will be stamped "Forms approved for use". If the appropriate corrections have not been made the submission will be stamped "Disapproved". Disapproved submissions are dead files at this point. A completely new submission must be filed to be considered for review.• <u>Surety Bonds, Manuscript Forms, Reinsurance, Ocean Marine, Foreign Trade</u> NO FILING REQUIREMENTS. Forms for these lines are not required to be filed. <p><i>Statutory Reference: Montana Code Annotated 33-1-501, 33-1-502</i></p>
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MONTANA

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WHAT TO FILE

Forms	<ul style="list-style-type: none">• 2 copies of transmittal or cover letter describing the nature of the filing. All attachments to the filing should be listed, including the expected use date (60 day minimum).• Group filings: 2 copies must be submitted for each company• Certification by officer of the company that forms comply with Montana Code.• 1 copy of the filing per group• Forms filings and rates and/or rules filings should be submitted separately. When forms and rates are submitted in the same filing, response to the submission from the insurance division is necessarily slower.• The company's state of domicile approval of the forms. When an identical filing is being made on behalf of two or more companies in a group, the submission should address the approval status of each form by the regulatory official of each company's state of domicile.• <i>Statutory Reference: Montana Code Annotated Section 33-1-501</i>• A form listing page(s) for each company, plus a duplicate return copy, listing the new forms included in the submission, and identifying forms being replaced and/or withdrawn.• <u>Readability Certification</u> The insurance division will accept notification of compliance with the <i>Policy Language Simplification Act</i> by certification over the signature of an officer of your company. Company must include an inventory list with the specific form numbers and the Flesch score for each form. See exceptions/other requirements section.• A final printed copy of each new form, in the order they appear in the forms listing. "Proof copies" of forms are not sufficient. Final approval of a forms filing will not be given without final printed copies of the filed forms. Computer-generated final printed forms are acceptable. When an identical filing is being made on behalf of two or more companies in a group, the submission should include only one set of the new forms. It is not necessary to submit a set of forms with the "return" copy of the submission, unless the company wants a set of the forms returned with the return copy. The division will not individually stamp "forms approved" on each form. The division will stamp only the cover letter and the forms listing.• If the carrier intends to proceed with the deemer provision of code, all steps outlined in MCA 33-1-501 must be followed. These include certified mail filing and the balance of requirements outlined in 33-1-501 in detail.
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

WHAT TO FILE (*continued*)

Forms	<ul style="list-style-type: none">• Companies must include a return envelope when responding to the insurance division's written inquiries.• The following are the most common areas of non-compliance in forms filing:<ol style="list-style-type: none">1. Telephone responses without written confirmation will not be acceptable.2. Failure to provide evidence of the company's state of domicile approval of that form(s). Evidence of such approval is not required for the following exceptions:<ol style="list-style-type: none">a. Forms which address specific Montana requirements. In these cases, companies should explicitly identify this fact in the cover letter. Sections of such forms which are not Montana-specific are still subject to the state of domicile's approval requirement.b. Forms filed with and approved by the insurance division on the company's behalf by a rating organization, of which the company is a member or subscriber. If the company makes any modifications to the text of a rating organization's form other than the inclusion of the company's name, the form is then considered an independent form and is no longer considered a rating organization's form.c. Forms not required to be filed for approval with the regulatory official in the company's state of domicile because the form filing requirements of the state of domicile do not apply to the subject forms. In these cases, the company should include a copy of the company's state of domicile's current law or directive.d. Forms not required to be filed with the regulatory official in the company's state of domicile because the company will not be offering the coverage in that state. In these cases, the division will consider that state of domicile requirement as having been met if the company certifies that to the best of the company's knowledge, the form(s) would be approved by the state of domicile if the company were to file it there. If the insurance division approves a forms filing on this basis and any related form is later filed with but disapproved by the regulatory official of the company's state of domicile, the insurance division's approval of that form is at that point withdrawn. If the company is aware of any reason why the company's state of domicile would reject or disapprove a form for use in that state, that form will not be approved for use in Montana.e. Forms for which the insurance division has issued an order exempting the state of domicile's approval requirement. If the company is making a countrywide filing, do not send the filing to the state until the company has received approval of the filing from the state of domicile.
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

WHAT TO FILE (*continued*)

Forms	<ol style="list-style-type: none">3. Whatever the state of domicile approval situation is, be sure to adequately explain it in the cover letter. If the state of domicile's approval requirement is not addressed in the submission, the insurance division may attempt to resolve by telephone. If the state of domicile's approval requirement is not met and none of the exceptions apply, the submission will be disapproved.4. Failure to include a form number and/or edition date on a filed form. Each form included in a submission, including endorsements, riders, application forms, declarations pages, etc., must include a unique form number, preferably in the lower left corner of the form. Submissions which do not comply will be disapproved.5. Non-compliance with cancellation provisions. If a non-compliant cancellation provision of a policy form is to be superseded by an endorsement previously filed with and approved by the insurance division, the company should identify in the filing cover letter the endorsement form number, when it was filed, and the date of approval. It is not necessary to resubmit the endorsement. If the cancellation provision of a form does not comply, the insurance division will ask the company if an endorsement has previously been approved. If not, the filing will be disapproved.6. Non-compliance with Montana's non-gender law. Discrimination, based on gender or marital status, is prohibited. Any form which does not comply will be disapproved.7. Failure to include the required Conformity with State Statutes provision. If a non-compliant policy form is to be brought into compliance by an endorsement previously filed with and approved by this department, the company should identify in the filing cover letter the endorsement form number, when it was filed, and the date of approval. It is not necessary to resubmit the endorsement. If a conformity provision does not comply, the division will ask the company if a superseding endorsement has previously been approved. If not, the filing will be disapproved.8. Defense within limits: The insurance division shall disapprove any form or withdraw any previous approval only if the form contains or incorporates by reference any inconsistent, ambiguous or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract, including a provision in a casualty insurance form permitting defense costs within limits, except as permitted by the insurance division in their discretion. Factors taken into consideration in determining whether a defense within limits provision will be permitted include the following:
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

WHAT TO FILE (*continued*)

Forms	<ul style="list-style-type: none">a. How well the defense within limits provision is disclosed. Such disclosure should be prominently displayed on the application, the declarations page, and the policy face page.b. The sophistication of the target market. Defense within limits provisions are not permitted in personal lines coverages, with the possible exception of excess or umbrella coverages, or special, unique exposure "add-on" coverages which the policyholder could elect.c. The availability of coverage in the marketplace on a defense outside policy limits basis. Defense within limits provisions are routinely approved for pollution liability coverages, for example, where coverage availability would otherwise be threatened.d. Availability of reinsurance. If the company's reinsurer refuses to reinsure a product unless a defense within limits provision is included in the policy, the company should include written documentation of such fact from the reinsurer.e. How the defense within limits provision is accommodated in the pricing of the coverage. Pricing studies should demonstrate the reasonable relationship between price and coverage on a defense within limits basis.f. Whether defense outside policy limits is offered for an additional premium. Whether the coverage has traditionally been sold on a defense within limits basis. Examples where defense within limits provisions are routinely accepted are Errors and Omissions (E&O) coverages and Directors and Officers (D&O) coverages.g. What the company's procedures are when the policy limit is exhausted by defense costs, but final resolution of the claim has not been determined. Will the company continue to defend to resolution, then bill costs to the insured? Or will the company simply withdraw defense and leave the insured "stranded" with an uncompleted case?h. Availability of increased limits. If a policyholder is fearful that defense costs could consume the policy limit leaving nothing for the payment of any judgments, one solution is to simply increase the policy limit. The insurance division is less receptive to defense within limits provisions when this option is not available to the policyholder.i. Whether the term "defense costs" is adequately and appropriately defined in the policy. Inclusion of costs of an company's home office claims administration personnel as "defense costs" would not be permitted, for example.j. Defense limitations in commercial lines umbrella and excess coverages usually do not present major problems.
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

WHAT TO FILE (*continued*)

Forms	<p>Many of the same considerations identified above apply in other forms of defense limitations, such as separate policy limits for defense coverage, defense deductibles, pro-rating defense costs between the insured and company (e.g., based on the relationship of the policy limit to the ultimate judgment) and defense coinsurance provisions, or combinations of the above.</p> <ol style="list-style-type: none">9. Medical payments coverage does not define “reasonable, usual, customary; usual and customary or reasonable and customary” as required by 33-15-308, MCA.10. Affiliations with entities not properly licensed to transact insurance business in the state. Such entities include but are not limited to administrators, consultants, premium finance companies, insurance producers, or managing general agents. Approval of a submission will be withheld until all related entities have met licensing and filing requirements.11. Provisions in policy forms which provide for fully earned premiums, or other unearned premium refund methods which inappropriately match premium earnings to covered exposures, are not permitted. The company may not willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided. Submissions which do not comply will be disapproved.12. Premiums are fully earned.13. Forms contain “voiding” provisions which are not permissible. <p>Common areas of non-compliance in forms filings related to specific lines of insurance are identified below. Before submitting forms for these lines of insurance, the company should review the provisions below to assure that the submission complies.</p> <ul style="list-style-type: none">• <u>Private Passenger Auto Insurance</u> Companies must address uninsured motorist coverage, reimbursement on an actual replacement value basis in the event of total losses, limitations of liability, cancellation, non-renewal, and return of unearned premium. Forms submissions must comply with these provisions. Companies are prohibited to use adverse information contained in a driving record which is 3 years old or older. Any application for coverage which request adverse information contained in driving records older than 3 years old will be disapproved. Companies cannot unfairly discriminate against previously uninsured risks per 6.6.3301-6.6.3304 ARM. Sections 61-6-301-303, MCA, only allows for family members to be excluded on auto policies.• <u>Homeowners Insurance</u> Companies must address day-care operations, cancellation, and non-renewal. Forms submissions must comply with these provisions. Non-compliant filings will be disapproved.
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

WHAT TO FILE (*continued*)

Forms	<ul style="list-style-type: none">• <u>Professional Liability Insurance</u> Companies must address cancellation of professional liability (medical malpractice) insurance. Forms submissions must comply with these provisions. Non-compliant filings will be disapproved.• <u>Property Insurance</u> Companies must address valuations of losses in property insurance. Forms submissions must comply with these provisions. Non-compliant filings will be disapproved.
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Forms	<ul style="list-style-type: none">• None
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EXCEPTIONS/OTHER REQUIREMENTS

Forms	<ul style="list-style-type: none">• <u>Group Filings</u> 2 copies of the cover letter must be submitted for each company, 1 copy of the filing per group• <u>Readability (Property and Casualty Insurance Policy Language Simplification Act) 33-15-333 through 33-15-340</u> The purpose of this act is to establish minimum language and format standards to make property and casualty policies easier to read. The simplification standards for language or format do not apply to property and casualty policies:<ol style="list-style-type: none">1. manuscript forms2. ocean marine3. surety and financial institution bonds4. reinsurance5. commercial aviation6. large commercial risks whose aggregate annual premiums for insurance on all risks total at least \$100,0007. a non-English policy is considered in compliance with readability standards if it was translated from an English policy that complies with readability standards.• <u>Minimum policy simplification standards</u><ol style="list-style-type: none">1. Property and casualty policies must take into consideration the following factors:<ol style="list-style-type: none">a. use of simple sentence structure, short sentences, and personal style
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

EXCEPTIONS/OTHER REQUIREMENTS (*continued*)

Forms	<ul style="list-style-type: none">b. use of commonly understood words and everyday conversational language consistent with the policy's standing as a contractc. avoidance of use of technical and legal terms and words with special meanings whenever possibled. minimal reference to other sections or provisions of the policye. logical organization of textf. legibility. <ul style="list-style-type: none">2. The policy must include a table of contents and notice section of important provisions.3. Each section must be self-contained and independent. However, general provisions applicable to more than one section may be included in a common section.4. The policy, except for declarations pages, schedules, and tables, must be printed in not less than 10-point type, 1-point leaded. "1-point leaded" means that there should be 1/72" space between 2 lines of text.5. The policy must be printed in a legible type style, with adequate contrast between ink and paper. Captions, headings, and spacings must be used to increase overall legibility.6. Policy exclusions may use technical terms, terms with special meanings and court-interpreted terms to ensure policy clarity.7. Technical terms and words with special meanings must be avoided whenever possible.8. The policy text must achieve a minimum score of 40 on the Flesch Reading Ease Test, an equivalent score on a comparable test, or a lower score on either if the commissioner finds the policy reasonably easy to read. For purposes of this section, a Flesch Reading Ease Test must be scored by the following method:<ul style="list-style-type: none">b. For a policy containing 10,000 words or less, the entire policy must be analyzed. For a policy containing more than 10,000 words, the readability of two 100-word samples per page may be analyzed instead. The samples must be separated by at least 20 printed lines.c. The total number of words in the text or sample must be divided by the total number of sentences. The figure obtained must be multiplied by 1.015.d. The total number of syllables in the text or sample must be divided by the total number of words. The figure obtained must be multiplied by 84.6.e. The sum of the figures computed under subsections 8b. and 8c. subtracted from 206.835 equals the Flesch Reading Ease Test score. For purposes of subsection 8, the following procedures must be used:<ul style="list-style-type: none">i. A contraction, hyphenated word, number, and letter, when
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

	separated by spaces, are counted as one word.
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EXCEPTIONS/OTHER REQUIREMENTS *(continued)*

Forms	<p>ii. A unit of text ending with a period, semicolon, or colon is counted as a sentence.</p> <p>iii. A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. When the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.</p> <p>At the option of the insurer, a form made a part of the policy may be scored separately or as part of the policy.</p> <p>e. The term "text ", as used in this section, includes all printed matter except:</p> <ul style="list-style-type: none"> i. The name and address of the insurer ii. the name, number, or title of the policy or form iii. the table of contents or index; headings and captions iv. declarations pages, schedules, or tables. <p>The insurance division may authorize a lower score than the Flesch Reading Ease Test score when, in the commissioner's discretion, a lower score:</p> <ul style="list-style-type: none"> 1. will provide a more accurate reflection of the readability of a policy 2. is warranted by the nature of a particular policy or type or class of policy 3. is caused by certain policy language that is drafted to conform to the requirements of any state law, regulation, or agency interpretation. <ul style="list-style-type: none"> • <u>Rating Organization Adoption Filings</u> If a company has authorized rating organizations to file on its behalf, and a new reference filing of policy forms and endorsements is filed and approved: IF: the company decides to use the revision and effective date as filed THEN: the company does not file anything with the insurance division. IF: the company decides to use the revisions as filed but with a different effective date THEN: the company must notify the insurance division of its effective date before the effective date of the rating organization's reference filing. IF: the company decides to use the revision with modification THEN: the company must file the modification with the insurance division for approval, specifying the basis for the modification. IF: the company decides not to use the revision THEN: the company must notify the insurance division before the effective date of the rating organization's reference filing. <p>In addition to filing the <i>Reference Filing Adoption Form</i>, the company must follow the filing requirements set forth in the "what to file" section. Company must include rating organization's reference filing designation number on all filing correspondences.</p>
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MONTANA

Personal and Commercial Lines Property and Casualty Forms Filings

Workers Compensation FILING LAW

Forms	<ul style="list-style-type: none">• PRIOR APPROVAL Please refer to personal and commercial lines property and casualty section. Requirements for Workers' Compensation are the same as other lines required to be filed. <i>Statutory Reference: Montana Section 33-1-501</i>
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Workers Compensation WHAT TO FILE

Forms	<ul style="list-style-type: none">• see Personal and Commercial Lines Section
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Workers Compensation FEE

Forms	<ul style="list-style-type: none">• None
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Workers Compensation EXCEPTIONS/OTHER REQUIREMENTS

Forms	<ul style="list-style-type: none">• <u>Group Filings</u> 2 copies of the cover letter must be submitted for each company, 1 copy of the filing per group• <u>Rating Organization Adoption Filings</u> If a company receives a notice regarding the approval of a new reference filing of policy forms and endorsements: IF: the company decides to use the revision and effective date as filed THEN: the company must notify the insurance division. IF: the company decides to use the revisions as filed but with a different effective date THEN: the company must notify the insurance division of its effective date before the effective date of the rating organization's reference filing. IF: the company decides to use the revision with modification THEN: the company must file the modification with the insurance division for approval, specifying the basis for the modification. IF: the company decides not to use the revision THEN: the company must notify the insurance division before the effective date of the rating organization's reference filing. In addition to filing the <i>Reference Filing Adoption Form</i>, the company must follow the filing requirements set forth in the "what to file" section. Company must include rating organization's reference filing designation number on all filing correspondences.
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